

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 17-283V

Filed: December 15, 2017

UNPUBLISHED

MARLA KRAMER,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);
Damages Decision Based on Proffer;
Influenza (Flu) Vaccine; Hepatitis A
(Hep A) Vaccine; Shoulder Injury
Related to Vaccine Administration
(SIRVA)

Amy A. Senerth, Muller Brazil, LLP, Dresher, PA, for petitioner.

*Mallori Browne Openchowski, U.S. Department of Justice, Washington, DC, for
respondent.*

DECISION AWARDING DAMAGES¹

Dorsey, Chief Special Master:

On February 28, 2017, petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the “Vaccine Act”). Petitioner alleges that she suffered right shoulder injuries and neuralgia of the right upper extremity caused by the influenza (“flu”) and Hepatitis A (“Hep A”) vaccinations she received on February 2, 2016. Petition at 1, ¶¶ 2, 14. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On October 27, 2017, a ruling on entitlement was issued, finding petitioner entitled to compensation for her shoulder injuries. (ECF No. 25). On December 15, 2017, respondent filed a proffer on award of compensation (“Proffer”) indicating petitioner should be awarded \$97,108.38. Proffer at 1 (ECF No. 28). In the Proffer, respondent represented that petitioner agrees with the proffered award. *Id.* Based on

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

the record as a whole, the undersigned finds that petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **the undersigned awards petitioner a lump sum payment of \$97,108.38 in the form of a check payable to petitioner, Marla Kramer.** This amount represents compensation for all damages that would be available under § 15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Nora Beth Dorsey
Nora Beth Dorsey
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

MARLA KRAMER,)	
)	
Petitioner,)	
v.)	No. 17-283V
)	Chief Special Master Dorsey
SECRETARY OF HEALTH AND HUMAN)	ECF
SERVICES,)	
)	
Respondent.)	

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

I. Compensation for Vaccine Injury-Related Items

On October 27, 2017, Chief Special Master Dorsey issued a Ruling on Entitlement finding that petitioner was entitled to vaccine compensation for her Shoulder Injury Related to Vaccine Administration (“SIRVA”). Based on the evidence of record, respondent proffers that petitioner should be awarded \$97,108.38. This amount represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a).¹ Petitioner agrees.

II. Form of the Award

The parties recommend that compensation provided to petitioner should be made through a lump sum payment of **\$97,108.38**, in the form of a check payable to petitioner. Petitioner agrees.

Petitioner is a competent adult. Evidence of guardianship is not required in this case.

¹ Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future lost earnings and future pain and suffering.

Respectfully submitted,

CHAD A. READLER
Acting Assistant Attorney General

C. SALVATORE D'ALESSIO
Acting Director
Torts Branch, Civil Division

CATHARINE E. REEVES
Deputy Director
Torts Branch, Civil Division

ALEXIS B. BABCOCK
Assistant Director
Torts Branch, Civil Division

s/ Mallori B. Openchowski
MALLORI B. OPENCHOWSKI
Trial Attorney
Torts Branch, Civil Division
U.S. Department of Justice
P.O. Box 146, Ben Franklin Station
Washington, DC 20044-0146
Tel.: (202) 305-0660

DATED: December 15, 2017